

University of California, Hastings College of the Law UC Hastings Scholarship Repository

Propositions

California Ballot Propositions and Initiatives

1972

ASSIGNMENT OF STUDENTS TO SCHOOLS

Follow this and additional works at: http://repository.uchastings.edu/ca_ballot_props

Recommended Citation

ASSIGNMENT OF STUDENTS TO SCHOOLS California Proposition 21 (1972).
http://repository.uchastings.edu/ca_ballot_props/772

This Proposition is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Propositions by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact marcusc@uchastings.edu.

Proposition 20 would halt that effort.
Don't lock up California's coastside.
Vote NO on Proposition 20.

JAMES S. LEE, President
State Building & Construction
Trades Council of California
GEORGE CHRISTOPHER
Former Mayor of San Francisco
JOHN J. ROYAL
Executive Secretary Treasurer
Fishermen's & Allied Workers
Union, I.L.W.U.

Rebuttal to Argument Against Proposition 20

The real opponents of the Coastline Initiative—the oil industry, real estate speculators and developers, and the utilities—are primarily concerned with profits, not the public interest. Their arguments are simply not true.

- Every government study, every scientific report, every trip to the beach proves that our beaches ARE endangered.

- The public has been denied access to hundreds of miles of beaches and publicly owned tidelands by freeways, private clubs, residential and industrial developments.

- Two-thirds of California's estuaries and any of our beaches have been destroyed.

- Of California's 1072 miles of coast, 659 are privately owned; of the 413 miles pub-

licly owned, only 252 are available for public recreation.

- Proposition 20 represents an open beach and public access policy for Californians now locked out from swimming, beach recreation, surf-fishing and skin diving.

- The initiative process, the essence of democracy, gives the people this opportunity to enact themselves what unresponsive government has for years refused to do.

- Proposition 20 contains NO prohibition on the construction of power plants. Rather, it offers a sensible plan to determine where—not if—new plants may be built.

- One-half the membership of the six coastal commissions will be locally elected officials.

- The opponents claim revenue and job losses. These scare tactics have no basis in fact.

- Many labor unions, including the ILWU, Northern and Southern District Councils, are on record in support of the Coastline Initiative.

Vote YES on Proposition 20.

JOHN V. TUNNEY
United States Senator
DONALD L. GRUNSKY
State Senator
(R-Santa Cruz, Monterey, San Luis
Obispo and San Benito Counties)
BOB MORETTI
Assemblyman
Speaker—California State Assembly

21 **ASSIGNMENT OF STUDENTS TO SCHOOLS. Initiative.** Add section to Education Code providing: "No public school student shall, because of his race, creed, or color, be assigned to or be required to attend a particular school." Repeals section establishing policy that racial and ethnic imbalance in pupil enrollment in public schools shall be prevented and eliminated. Repeals section which (1) establishes factors for consideration in preventing or eliminating racial or ethnic imbalances in public schools; (2) requires school districts to report numbers and percentages of racial and ethnic groups in each school; and (3) requires districts to develop plans to remedy imbalances. Financial impact: None.

YES

NO

(For Full Text of Measure, See Page 33, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this initiative statute is a vote to prohibit any public school student from being assigned to a particular school because of his race, creed, or color; and to repeal the existing statutes and void the existing regulations of the State Board of Education which declare the state policy of preventing and eliminating racial and ethnic imbalance in pupil enrollment and which make provision for carrying out such policy.

A "No" vote is a vote against enactment of the initiative act.

For further details, see below.

(Detailed analysis on page 56, column 1)

Cost Analysis by the Legislative Analyst

Existing law requires school districts to (1) submit statistics to the State Department of Education regarding the racial and ethnic makeup of school populations in each school, (2) study and consider plans for alternate pupil distributions if the State Department of Education finds that the percentage of pupils of one or more racial or ethnic groups differs significantly from the districtwide percentage, and (3) submit a report of alternate plans and a schedule of implementation to the State Department of Education for acceptance or rejection. The State Board of Education is directed to adopt rules and regulations to implement the above requirements.

(Continued on page 56, column 2)

Detailed Analysis by the Legislative Counsel

This measure would add a provision to the Education Code that no public school student shall be assigned to a particular school because of his race, creed, or color. The effect which would be given this provision would depend upon its interpretation by the courts in the light of their decisions that the Equal Protection Clause of the United States Constitution requires school boards to take reasonable steps to prevent and eliminate racial and ethnic imbalance in pupil enrollment.

The measure would also repeal certain existing statutes and void certain existing regulations of the State Board of Education. More particularly, the repeals would:

(1) Delete the present declarations of policy that responsible agencies prevent and eliminate racial and ethnic imbalance in pupil enrollment.

(2) Delete the present requirement that the prevention and elimination of such imbalance be given high priority in decisions relating to school sites, attendance areas, and attendance practices.

(3) Delete the present requirement that local school boards submit statistics periodically to the Department of Education regarding racial and ethnic makeup of school population in each school under their jurisdiction.

(4) Delete the present definition of a racial or ethnic imbalance.

(Continued in column 2)

Cost Analysis by the Legislative Analyst

(Continued from page 55, column 2)

This initiative measure would repeal above requirements and declare that no public school student shall, because of his race, creed or color, be assigned to or be required to attend a particular school.

We believe there would be no increase in state costs because of this measure. There might be a slight reduction in state costs because of the elimination of certain state administrative responsibilities with respect to school district plans concerning racial and ethnic makeup of school populations.

(Continued from column 1)

(5) Delete the present requirement that a school district consider plans to redistribute pupils when the Department of Education finds that the percentage of pupils of one or more racial or ethnic groups in a school differs significantly from the districtwide percentage.

(6) Delete the present requirement that school districts analyze the total educational impact of redistribution plans on pupils and submit reports of the study and the proposed plans, with schedules for implementation, to the Department of Education for approval.

(7) Delete the present requirement that the Department of Education determine adequacy of such plans and schedules and report its findings to the State Board of Education, with an annual summary to the Legislature.

Argument in Favor of Proposition 21

The Student School Assignment Initiative, commonly referred to as the "Wakefield Anti-Busing" measure, repeals a law passed in 1971 which mandates forced integration, which could only be accomplished through forced busing.

Your "yes" vote for this measure will preserve your right as a parent to have your children attend schools in the neighborhood where you choose to live.

The Initiative adds a section to the Education Code providing, "No public school student shall, because of his race, creed, or color, be assigned to or be required to attend a particular school."

Failure of this measure will assure the enforcement of State Board of Education rules and regulations required by the Bagley Act (AB 724) or the forced integration measure to compel school districts to assign students to schools on the basis of "racial balance" without regard to neighborhood schools or parental consent. For the first time in any state, racial balance has become a legal mandate.

The Initiative repeals the law which states it is the declared policy of the Legislature that racial and ethnic imbalances in pupil enrollment shall be prevented and eliminated.

The Initiative repeals the law which states that prevention and elimination of such imbalance shall be given high priority.

The Initiative repeals the law which requires that district study and plans of action, with schedules for implementation shall be submitted to the Department of Education for acceptance or rejection.

Also, Sec. 4 of the Student School Assignment Initiative would declare "null and void" that section of the Education Administrative Code relating to the attendance areas and practices, as set forth in the Education Code, which has created legal chaos for school districts.

The courts have already ordered several districts in California to implement the new forced integration law.

We oppose mandatory busing for the sole purpose of achieving forced integration. policy based on this objective destroys

neighborhood school concept, while at the same time squanders tax dollars which are desperately needed to upgrade our educational standards for all students regardless of race, creed or color.

We believe that all parents are entitled to freedom of choice in choosing the school environment for their most precious possessions, their children.

We believe that legislation such as the forced integration law, which forces local school districts to reassign pupils from their neighborhood schools to achieve racial and ethnic balance violates the basic rights of school children and will ultimately destroy the public school system.

We urge a "yes" vote to repeal this costly legislation.

FLOYD L. WAKEFIELD
Assemblyman, 52nd District

KEN BROWN, President
Solano County Board of Education

DR. ROBERT PETERSON
County Superintendent of Schools
Orange County

Rebuttal to Argument in Favor of Proposition 21

Unfortunately, proponents' argument indulges in the tired and time-worn tactic of repeating scare words and horror stories which are unrelated to the subject at hand. Phrases such as "forced integration", "forced busing", "destruction of public schools" and "costly legislation" are such scare words.

Both Governor Reagan and Legislative Counsel agree that the new law does not involve mandatory busing and does not change basic State law.

In a 1963 decision (*Jackson v. Pasadena City School Dist.*), the California Supreme Court ruled: "The right to an equal opportunity for education . . . require(s) that school boards take steps, insofar as reasonably feasible, to alleviate racial imbalance in schools regardless of its cause." 59 Cal. 2d 876 at 881-882. (See *Serrano v. Priest*, 3 Cal. 3d 584 at 604 (1971)). That is basic constitutional law. Neither the new statute nor this ballot proposition would change it.

Further, the new language which the initiative would add is meaningless. The United States Supreme Court unanimously declared the same wording unconstitutional if, because of racial segregation, some students are not receiving an equal educational opportunity. See *North Carolina v. Swann*, 28 L. ed. 2d 586 at 589 (1971)—Burger, C. J. Opinion.

This primary fact remains true. The law sought to be repealed (AB 724 as signed by the Governor) simply sets up a procedure by local school boards, with public participation, can plan ahead to solve severe racial impaction problems. Without such a procedure, Courts will step in under the existing "equal protection" mandate of the United

States and California constitutions. Then "busing" will occur under Court order.

JOHN CIMOLINO, President
California School Boards Association

MRS. ERNA SCHULING
President, League of Women Voters

WILLIAM T. BAGLEY, Assemblyman
Marin and Sonoma Counties

Argument Against Proposition 21

Passage of this proposition will encourage Court-ordered "busing" in California! Please vote "no".

The proposition attempts two things. Its first sentence proposes some deceptively simple language which has already been declared unconstitutional, unanimously, by the U.S. Supreme Court. Thus, at best, this sentence is useless.

Secondly, the proposition repeals an administrative process whereby local school boards are to plan ahead, within districts where problems exist, to solve educational inequality problems. Repeal will only encourage Courts to order "busing" because no other mechanism will be available. There lies the fallacy of this measure.

The Legislature in 1971 passed and Governor Reagan after extensive study signed the law which this proposition would repeal. This was and is a very moderate proposal establishing flexible guidelines to aid local districts and to encourage districts to plan ahead to avoid busing controversies. For example, because of earthquake safety requirements, hundreds of new schools must be built by 1975. Districts should be encouraged to locate new school sites in order to prevent severe racial impaction. Other such long-range plans can be made by districts with the cooperation of the State Board of Education.

As long as this planning procedure is actively underway and these administrative remedies have not been exhausted, this very fact will provide a legal defense against mandatory "busing". Under this process, districts in seriously imbalanced areas can make progress, Court intervention can be averted, and resulting emotional and destructive controversies can be avoided. Quality education for all can be improved.

Legislative Counsel's office and Governor Reagan agree. Legislative Counsel has ruled that the law sought to be repealed:

1) does not relate to "busing" of any type and does not mandate "busing";

2) does not mandate attendance areas for school children and does not remove local control;

3) does not change the over-all racial balance policy of the State.

Governor Reagan, in a letter to the State Board of Education, stated that this new law here sought to be repealed "merely confirmed the authority and the affirmative duty of school districts to deal with racial imbalance

rather than have the Courts interfere . . . Nothing in this bill speaks to moving children across district lines. What this law does is to create an administrative mechanism to handle the problem rather than leave the issue for judicial action. Hopefully, this will strengthen our democratic processes and should be a balanced, rational and viable solution with the best chances for long-range desirable action."

The law here sought to be repealed provides a constructive alternative to sporadic and sometimes precipitous Court action. It creates a system of local district cooperation to identify areas of serious imbalance within a district and then allows time for long-range calm discussion and solution.

No amount of distortion can negate the truth and wisdom of this law and its importance to our State and our school children.

Don't repeal calm and deliberative progress. Please vote "no" on this ill-conceived and ill-considered proposition!

JOHN CIMOLINO, President
California School Boards Association

MRS. ERNA SCHUILING
President, League of Women Voters

WILLIAM T. BAGLEY, Assemblyman
Marin and Sonoma Counties

Rebuttal to Argument Against Proposition 21

The opposition to the Neighborhood School Initiative has repeatedly tried to deceive the public with false statements. No part of this initiative has ever been declared unconstitutional by the U.S. Supreme Court. Further, the initiative has a severability clause.

Charges that the repeal of the Education Administrative Code would encourage "t ordered busing is false. This state and . . . has witnessed chaos from court ordered programs before and since the law has been in existence.

On March 4, 1972, Bagley's forced integration measure became law. Later suits were filed in San Mateo and San Bernardino Counties demanding performance under provisions of the law.

When any law mandates a district study and plans for implementation of integrated programs be submitted to the Department of Education for its acceptance or rejection, we submit, this usurps local control!

Attempts are being made to throw the responsibility for defense of the forced integration law upon the Governor. Obviously the Governor cannot be personally aware of the ultimate consequences of every piece of legislation that crosses his desk and must rely upon information from many sources.

Although "busing" is not mentioned either in the forced integration law or the Los Angeles School District court order, how else can a child attend a school miles from his home? The majority of people are opposed to busing. If the forced integration law doesn't mandate busing, as claimed, it follows that the opponents should have no objection to this initiative. We urge a "Yes" vote on Proposition

FLOYD L. WAKEFIELD
Assemblyman, 52nd District

KEN BROWN, President
Solano County Board of Education

DR. ROBERT PETERSON
County Superintendent of Schools
Orange County

22 AGRICULTURAL LABOR RELATIONS. Initiative. Sets forth permissible and prohibited labor relation activities of agricultural employers, employees, and labor organizations. Makes specified types of strikes, picketing, and boycotts unlawful. Defines unfair labor practices. Creates Agricultural Labor Relations Board with power to certify organizations as bargaining representatives, conduct elections therefor, prevent unfair labor practices, and investigate and hold hearings relating to enforcement of Act. Provides Board's orders are reviewable and enforceable by courts. Provides interference with Board's performance of duties or commission of defined unlawful acts is punishable by fine and/or imprisonment. Financial impact: Cost increase to state of \$600,000 per year.

YES

NO

(For Full Text of Measure, See Page 35, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this initiative statute is a vote to provide for the regulation by the state of agricultural labor relations.

A "No" vote is a vote to reject this proposal.

For further details, see below.

(Detailed analysis on page 59, column 1)

Cost Analysis by the Legislative Analyst

This proposition defines the rights of parties engaged in agricultural labor disputes in California. It requires that bargaining representatives of agricultural employees be selected by means of secret ballot election and specifies those activities of employers or labor organizations which would constitute unfair labor practices.

(Continued on page 59, column 2)

27425. Any person may maintain an action for declaratory and equitable relief to restrain violation of this division. No bond be required for an action under this on.

27426. Any person may maintain an action for the recovery of civil penalties provided in Sections 27500 and 27501.

27427. The provisions of this article shall be in addition to any other remedies available at law.

27428. Any person who prevails in a civil action brought to enjoin a violation of this division or to recover civil penalties shall be awarded his costs, including reasonable attorneys fees.

CHAPTER 6. PENALTIES

27500. Any person who violates any provision of this division shall be subject to a civil fine not to exceed ten thousand dollars (\$10,000).

27501. In addition to any other penalties, any person who performs any development in violation of this division shall be subject to a civil fine not to exceed five hundred dollars (\$500) per day for each day in which such violation persists.

CHAPTER 7. REPORTS

27600. (a) The commission shall file annual progress reports with the Governor and the Legislature not later than the fifth calendar day of the 1974 and 1975 Regular Session of the Legislature, and shall file its final report containing the coastal zone plan with the Governor and the Legislature not later than the fifth calendar day of the 1976 Regular Session of the Legislature.

CHAPTER 8. TERMINATION

27650. This division shall remain in effect until the 91st day after the final adjournment of the 1976 Regular Session of the Legislature, and as of that date is repealed.

Sec. 2. Section 11528.2 is added to the Business and Professions Code, to read:

11528.2. The clerk of the governing body or the advisory agency of each city or county or city and county having jurisdic-

tion over any part of the coastal zone as defined in Section 27100 of the Public Resources Code, shall transmit to the office of the California Coastal Zone Conservation Commission within three days after the receipt thereof, one copy of each tentative map of any subdivision located, wholly or partly, within the coastal zone and such Commission may, within 15 days thereafter, make recommendations to the appropriate local agency regarding the effect of the proposed subdivision upon the California Coastal Zone Conservation Plan. This section does not exempt any such subdivision from the permit requirements of Chapter 5 (commencing with Section 27400) of Division 18 of the Public Resources Code.

This section shall remain in effect only until the 91st day after the final adjournment of the 1976 Regular Session of the Legislature, and as of that date is repealed.

Sec. 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 4. There is hereby appropriated from the Bagley Conservation Fund to the California Coastal Zone Conservation Commission the sum of five million dollars (\$5,000,000) to the extent that any moneys are available in such fund and if all or any portions thereof are not available then from the General Fund for expenditure to support the operations of the commission and regional coastal zone conservation commissions during the fiscal years of 1973 to 1976, inclusive, pursuant to the provisions of Division 18 (commencing with Section 27000) of the Public Resources Code.

Sec. 5. The Legislature may, by two-thirds of the membership concurring, amend this act in order to better achieve the objectives set forth in Sections 27001 and 27302 of the Public Resources Code.

21 **ASSIGNMENT OF STUDENTS TO SCHOOLS.** Initiative. Adds section to Education Code providing: "No public school student shall, because of his race, creed, or color, be assigned to or be required to attend a particular school." Repeals section establishing policy that racial and ethnic imbalance in pupil enrollment in public schools shall be prevented and eliminated. Repeals section which (1) establishes factors for consideration in preventing or eliminating racial or ethnic imbalances in public schools; (2) requires school districts to report numbers and percentages of racial and ethnic groups in each school; and (3) requires districts to develop plans to remedy imbalances. Financial impact: None.

YES

NO

(This Initiative Measure proposes to repeal and add sections of the Education Code.

Therefore, **EXISTING PROVISIONS** proposed to be **REPEALED** are printed in **STRIKEOUT TYPE** and **NEW PROVI-**

SIONS proposed to be **ADDED** are printed in **BOLDFACE TYPE**.)

PROPOSED LAW

SECTION 1. Section 1009.6 is added to the Education Code, to read:

1009.6. No public school student shall, because of his race, creed, or color, be assigned to or be required to attend a particular school.

SECTION 2. Section 5002 of the Education Code, as added by Chapter 1765 of the Statutes of 1971, is repealed.

5002. It is the declared policy of the Legislature that persons or agencies responsible for the establishment of school attendance centers or the assignment of pupils thereto shall prevent and eliminate racial and ethnic imbalance in pupil enrollment. The prevention and elimination of such imbalance shall be given high priority in all decisions relating to school sites, school attendance areas, and school attendance practices.

SECTION 3. Section 5003 of the Education Code, as added by Chapter 1765 of the Statutes of 1971, is repealed.

5003. (a) In carrying out the policy of Section 5002, consideration shall be given to the following factors:

(1) A comparison of the numbers and percentages of pupils of each racial and ethnic group in the district with their numbers and percentages in each school and each grade.

(2) A comparison of the numbers and percentages of pupils of each racial and ethnic group in certain schools with those in other schools in adjacent areas of the district.

(3) Trends and rates of population change among racial and ethnic groups within the total district, in each school, and in each grade.

(4) The effects on the racial and ethnic composition of each school and each grade of alternate plans for selecting or enlarging school sites, or for establishing or altering school attendance areas and school attendance practices.

(b) The governing board of each school district shall periodically, at such time and in such form as the Department of Education shall prescribe, submit statistics sufficient to enable a determination to be made of the numbers and percentages of the various racial and ethnic groups in every public school under the jurisdiction of each such governing board.

(c) For purposes of Section 5002 and this section, a racial or ethnic imbalance is indicated in a school if the percentage of pupils of one or more racial or ethnic groups differs significantly from the districtwide percentage.

(d) A district shall study and consider plans which would result in alternative pupil distributions which would remedy such imbalance upon a finding by the Department of Education that the percentage of pupils of one or more racial or ethnic groups in a school differs significantly from the districtwide percentage. A district undertaking such a study may consider among feasibility factors the following:

(1) Traditional factors used in site selection, boundary determination, and school organization by grade level.

(2) The factors mentioned in subdivision (a) of this section.

(3) The high priority established in Section 5002.

(4) The effect of such alternative plans on the educational programs in that district.

In considering such alternative plans the district shall analyze the total educational impact of such plans on the pupils of the district. Reports of such a district study and resulting plans of action, with schedules for implementation, shall be submitted to the Department of Education, for its acceptance or rejection, at such time and in such form as the department shall prescribe. The department shall determine the adequacy of alternative district plans and implementation schedules and shall report its findings as to the adequacy of alternative district plans and implementation schedules to the State Board of Education. A summary report of the findings of the department pursuant to this section shall be submitted to the Legislature each year.

(e) The State Board of Education shall adopt rules and regulations to carry out the intent of Section 5002 and this section.

Section 4. The provisions of Article 3 (commencing with Section 14020) of Chapter 1 of Division 13 of Part 1 of Title 5 of the California Administrative Code, as printed on January 1, 1972, relating to attendance areas and practices, shall have no force and effect.

Section 5. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.